



Federally Speaking



Number 5

by Barry J. Lipson

*The Western Pennsylvania Chapter of the Federal Bar Association (FBA), in cooperation with the Allegheny County Bar Association (ACBA), brings you the editorial column **Federally Speaking***

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The Pittsburgh Connection Revisited. Our companion column, **CorpLaw® Commentaries**, has been reporting on the cooperation with the **Antitrust Division** of the **US Department of Justice** of The Carbide Graphite Group of Pittsburgh, in the **DOJ** and **FBI** investigation of the international graphite electrodes price-fixing cartel, and the results of this cooperation. In a recent Press Release the **DOJ** formally acknowledged that “The Carbide Graphite Group, of Pittsburgh, cooperated in the investigation and the company and its executives received amnesty.” The **DOJ** also announced that “the Mitsubishi Corporation of Tokyo, Japan, was convicted after a two-week jury trial in U.S. District Court in Philadelphia,” and fined \$134 million, for aiding and abetting this “conspiracy among the world's major manufacturers of graphite electrodes to fix prices in the U.S. and elsewhere. ... This fine is the second-highest fine imposed in the graphite electrodes investigation and is the fourth-largest fine ever imposed in an antitrust case.” Previously, the **DOJ** had obtained “fines totaling more than \$300 million,” mostly without actually having to go to trial. Mitsubishi was not a producer of graphite electrodes, but owned 50 percent of UCAR International, the world's largest graphite electrodes producer, and was convicted for the more “indirect crimes” of “counseling, inducing, and encouraging” participation in the conspiracy, “arranging, facilitating, or otherwise providing assistance for” the conspiracy, “concealing the existence of the conspiracy,” and selling for others “at prices it knew to be fixed.” With personal individual fines included, the **DOJ** thanks Pittsburgh for a nearly \$500,000,000 contribution to the **US Treasury**.

Free You Say ... ? “These so-called ‘free’ Internet access offers” by Juno and Gateway “were anything but,” advised Jodie Bernstein, **FTC Bureau of Consumer Protection** Director. Juno made it most difficult, the **FTC** charged, for surfers to cancel their “free” Internet premium service trial period by only allowing cancellations through one telephone number, which, you guessed it, was kept unpublished, and when they finally reached this number they were, of course, kept waiting for long periods of time. Juno was also charged with failing to adequately disclose that surfers might incur long-distance telephone charges while on the Web; hiding information about fees “in the fine print;” not adequately disclosing that the 150 free hours had to be used within a month; and starting the one-month free period before the software necessary to access Juno was received. Similarly, the purchasers of Gateway Essential Computers were allegedly rewarded with free

“Gateway.net” Internet access for one year. However, those who could not access Gateway through local phone numbers were actually charged \$3.95 per hour for use of “essential” so-called “toll-free” connections to “Gateway.net”. The five **FTC** Commissioners unanimously voted for consent agreements with these companies which, among other things, will prohibit them from “misrepresenting the price or cost of any service to access the Internet or other electronic network,” and will require the payment of refunds to consumers.

“Operation Cyber Loss.” “Operation Cyber Loss” is the code name for a nationwide series of investigations into Internet fraud initiated by the **Internet Fraud Complaint Center (IFCC)**, the first partnership between a federal law enforcement agency (the **FBI**), and a non-profit private organization (the **National White Collar Crime Center** or “**NW3C**”), which serves Federal, state and local law enforcement agencies. So far, the fraud schemes exposed by this Operation effected over 56,000 victims who suffered cumulative losses in excess of \$117 million, and include multi-level marketing and Ponzi/Pyramid schemes and schemes involving on-line auction fraud, systemic non-delivery of merchandise purchased over the Internet, credit/debit card fraud, bank fraud, and investment fraud. For victims of Internet fraud, the **IFCC** provides a convenient and easy way to alert authorities to suspected criminal or civil violations through the **IFCC** web-site at www.ifccfbi.gov. “Just as neighborhood watch programs keep watch over their neighborhoods and report suspicious activity to law enforcement, Internet users now have a cyber community watch,” remarked **US Attorney General Ashcroft**. Most recently, Federal and state **fraud by wire, mail fraud, bank fraud, money laundering, and intellectual property right violations** criminal charges have been filed. To date Operation Cyber Loss has been participated in by **28 FBI Field Offices**, the **U.S. Postal Inspectors Service**; the **Internal Revenue Service-Criminal Investigative Division**; the **Securities and Exchange Commission**; **U.S. Customs Service**; the **Competition Bureau in Canada**; and numerous state and local law enforcement agencies.

“Operation Talon.” ‘Operation Talon’ is another Operation that “claws” its way through the criminal community, this time by using the **Federal Food Stamp Program** to stamp out “fugitive felons” on welfare wherever they may be. Since its inception in early 1997, Operation Talon has “gripped” approximately 75 metropolitan areas, resulting in nearly 7,500 arrests. According to the **Office of Inspector General (OIG) of the U.S. Department of Agriculture**, here’s how it worked most recently in St. Louis. “**Operation Talon** was made possible by the legislation commonly known as the **Welfare Reform Act of 1996** and was designed to locate and arrest fugitive felons, many of them violent offenders, by matching law enforcement agencies’ felony fugitive files with the state social services agencies’ food stamp recipient files.... The operation in the St. Louis area identified 600 food stamp recipients who were also fugitive felons with active felony arrest warrants on file. Arrest teams made up of local police officers and deputy sheriffs, along with **Federal Agents from OIG**, have been searching the streets of St. Louis and surrounding counties to locate and arrest these wanted felons,” and 99 were found and arrested. Least we accuse these **Federal Agents** of not being resourceful against these felons on welfare, earlier in D.C., “a unique undercover sting operation, dubbed ‘**Casino Tours International**,’” was implemented. “Fugitive felons were invited to participate in a free bus tour junket that would take them to Atlantic City for a day of gambling, lured by offers of a \$50 stake and a free gym bag—bearing the logo of the sting operation—if they signed up early. When the fugitives arrived for the trip, law enforcement agents posing as

tour personnel arrested them and drove them in the ‘tour bus’ to the local jail,” netting 726 fugitive “welfare” felons. Or how about the Portland-area operation, where fugitives allegedly “illegally receiving food stamp benefits,” were informed “that a Y2K-related computer conversion had caused the loss of their individual files” and “were directed to schedule an appointment to meet with a program specialist at the **Portland Federal Building**.” Thirty-five took the bait and were arrested by undercover law enforcement officers “when they reported for their scheduled appointments.” It appears that not only are personal government welfare records not covered by the **right of privacy**, and **truthfulness** not required from **Federal Agents**, but I bet these FOW’s (Felons on Welfare) **never** even got their “\$50 stake” or, “if they signed up early,” their “free gym bag—bearing the logo of the sting operation.” Any Federal Class Action or Civil Rights Attorneys interested?

Our own Judge Judy! – A good time was had by all at the June 12, 2001 HYP Club Reception and Cocktail Party, honoring our own Chief Judge Judith K. Fitzgerald, of the **U.S. Bankruptcy Court for the Western District of Pennsylvania**, where she was awarded Honorary Membership in the national Federal Bar Association. For information on future **Federal Judicial Receptions** keeping checking **Federally Speaking** or contact West Penn President Joe Perry (412/281-4900).

Truth or Fiction? – It was allegedly reported by Knight-Ridder News Service, that the inscription on the metal bands used by the **U.S. Department of the Interior** to tag migratory birds has been changed. The bands originally abbreviated the address of the **Washington Biological Survey** as “Wash. Biol. Surv.” They now reportedly read “**Fish and Wildlife Service**,” apparently as the result of a letter received by the agency from an Arkansas camper, which read (spelling corrected?) “Dear Sirs: While camping last week I shot one of your birds. I think it was a crow. I followed the cooking instructions on the leg tag and I want to tell you, it was horrible.”

The FEDERAL CLE Corkboard™

Tues, July 17, 2001--Mediation in Federal Agencies, Joel Pretz and Kim Bobrowsky,
FBA LearnAbout™ Monthly Luncheon Series (this month 3rd Tues)*

Tues, August 28, 2001--The Electronic Courtroom, Judge Robert J. Cindrich
FBA Late Afternoon (4-5:30 PM) Seminar*

Tues, September 11, 2001—Federal Mediation and Conciliation Service
FBA LearnAbout™ Monthly Luncheon Series*

September, 2001 –United States Supreme Court Review – TBA
FBA All Day Seminar*

Tues, October 9, 2001—Social Security Nuts and Bolts, Karl Osterhout, Esq.
FBA LearnAbout™ Monthly Luncheon Series*

*FBA - For information and reservations call Rick Taylor at 412/566-1626.
Check this Column each month for possible revisions.

*The purpose of **Federally Speaking** is to keep you abreast of what is happening on the Federal scene. All Western Pennsylvania CLE providers who have a program or programs that relate to Federal practice are invited to advise us as early as possible, in order to include mention of them in the **Federal CLE Corkboard™**. Please send Federal CLE information, any comments and suggestions you may have, and/or requests for information on the Federal Bar Association to: Barry J. Lipson, Esq., FBA Third Circuit Vice President, at the Law Firm of Weisman Goldman Bowen & Gross, 420 Grant Building, Pittsburgh, Pennsylvania 15219-2266. (412/566-2520; FAX 412/566-1088; E-Mail blipson@wgbglaw.com).*

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